

DOCKET NO. 70625/5102

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>Appln. No.:</b> 10/039,311		<b>Certificate of Transmission/Mailing</b>  I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 305-7658, on this date  08/23/04 <u>Steven M. Freeland</u> Date Steven M. Freeland Registration No. 42,555 Attorney for Applicant(s)
<b>Applicant(s):</b> Clark et al.		
<b>Filed:</b> October 26, 2001		
<b>Title:</b> PROVIDE OPTION PALETTE IN GUIDE SCREEN		
<b>Examiner:</b> TBD		
<b>Art Unit:</b> TBD		
<b>Confirm. No.:</b> TBD		

**RESPONSE TO THE REQUIREMENT FOR STATEMENT  
UNDER §152 OF THE ATOMIC ENERGY ACT**

U.S. Patent and Trademark Office  
220 20th Street South  
Customer Window, Mail Stop **LICENSING & REVIEW**  
Crystal Plaza Two, Lobby, Room 1B03  
Arlington, VA 22202

**RECEIVED**  
AUG 23 2004  
**LICENSING & REVIEW**

Dear Sir:

In response to the Requirement for Statement Under §152 of the Atomic Energy Act, Applicants submit the following Declarations:

1) Declaration from three of the four inventors, Reginald Wayne Clark; James Clark Lierman; and Donald Lander, setting forth the full facts surrounding the conception and making of the invention and declaring that the invention described by the subject application was not made or conceived in the course of, or in connection with, or under the terms of any contract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors: Energy Research and Development Administration or the Department of Energy;

2) Declaration from an Officer, Carton J. Eibl, of the Assignee, PurePulse Technologies, Inc., who has sufficient knowledge of the facts and similarly declaring that

Page 2 of 2  
Application Serial No. 10/039,311  
Statement Under §152 of the Atomic Energy Act

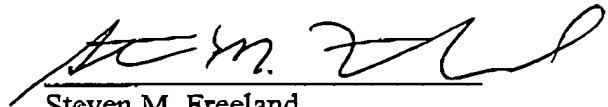
the invention of the subject application was not made or conceived under a relationship with the United States Atomic Energy Commission; and

3) Declaration from Thomas F. Lebens, registered to practice before the United States Patent and Trademark Office (Reg. No. 38,221) and legal representative of Applicants, declaring that the fourth inventor, Joseph E. Dunn refused to cooperate and sign a declaration.

Applicants have made a diligent effort to satisfy the requirements for Statement under §152 of the Atomic Energy Act. However, should there remain any deficiency or outstanding issues that require adverse action, it is respectfully requested that the Licensing & Review Board telephone the undersigned at (858) 552-1311 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,

August 23, 2004  
Date

  
Steven M. Freeland,  
Reg. No. 42,555

Address all correspondence to:  
FITCH, EVEN, TABIN & FLANNERY  
Thomas F. Lebens  
120 So. LaSalle Street, Ste. 1600  
Chicago, IL 60603

Direct telephone inquiries to:  
Thomas F. Lebens  
(858) 552-1311  
San Diego, California Office of  
FITCH, EVEN, TABIN & FLANNERY

70625res\_atomic\_energ

FETF 70625

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Clark, et al. )  
Serial No.: 10/039,311 )  
Filed: 10/26/01 )  
For: STERILIZATION OF )  
PACKAGES AND THEIR )  
CONTENTS USING LIGHT )  
Group Art )  
Unit: TBD )  
Examiner: TBD )

RECEIVED  
AUG 23 2004  
LICENSING & REVIEW

ok  
Commissioner of Patents and Trademarks  
Washington, DC 20231  
Attn: Licensing and Review

DECLARATION PURSUANT TO 42 U.S.C. §§ 2182 & 2457

We Reginald Wayne Clark citizen of the United States  
residing at \_\_\_\_\_, James Clark  
Lierman citizen of the United States residing at \_\_\_\_\_  
\_\_\_\_\_, Donald Lander citizen of the United  
States residing at \_\_\_\_\_, and \_\_\_\_\_  
Joseph E. Dunn citizens of the United States residing at \_\_\_\_\_  
\_\_\_\_\_,  
declare:

That we made and conceived the invention described and  
claimed in patent application:

Serial Number 10/039,311 Filed in the United States of  
America on October 26, 2001 titled STERILIZATION OF  
PACKAGES AND THEIR CONTENTS USING LIGHT.

[X] I. (For Inventors Employed by and Organization) That I  
(we) made and conceived this invention while employed by

Declaration  
S.N. 10/039,311  
Page -2-

PurePulse Technologies Inc. That the invention is related to the work I (we) are employed to perform and was made within the scope of my (our) employment duties; That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information and services of PurePulse Technologies, Inc. Other relevant facts are \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

That to the best of my (our) knowledge and belief (and/or) based upon information provided by \_\_\_\_\_ of \_\_\_\_\_  
PurePulse Technologies, Inc.:

-OR-

[ ] II. (For Self-Employed Inventors) That I (we) made and conceived this invention on my (our) own time using only my (our) own facilities, equipment, materials, funds, information and services. Other relevant facts are \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Check III and/or IV below as appropriate)

That to the best of my (our) knowledge and belief:

[X] III. The invention was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors: Energy Research and Development Administration or the Department of Energy.

-AND/OR-

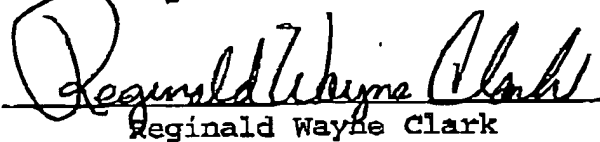
[X] IV. The invention was not made (conceived or first actually reduced to practice) under nor is there any relationship

Declaration.  
S.N. 10/039,311  
Page -3-

of the invention to the performance of any work under any  
contract of the National Aeronautics and Space Administration.

The undersigned inventor(s) declare futher that all  
statements made herein of his or her (their) own knowledge are  
true and that all statements made on information and belief are  
believed to be true and further that these statements are made  
with the knowledge that willful false statements and the like so  
made are punishable by fine or imprisonment, or both, under  
Section 1001 of Title 18 of the United States Code and that such  
willful false statements may jeopardize the validity of the  
application or any patent issuing thereon.

Inventor's Signature: \_\_\_\_\_

  
Reginald Wayne Clark

Post Office Address: \_\_\_\_\_

Date: \_\_\_\_\_

Inventor's Signature: \_\_\_\_\_

James Clark Lierman

Post Office Address: \_\_\_\_\_

Date: \_\_\_\_\_

Inventor's Signature: \_\_\_\_\_

Donald Lander

Post Office Address: \_\_\_\_\_

08/19/2004 07:23 8585788535

J LIERMAN

PAGE 82

Declaration  
S.N. 10/039,311  
Page -3-

of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration.

The undersigned inventor(s) declare further that all statements made herein of his or her (their) own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Inventor's Signature: \_\_\_\_\_  
Reginald Wayne Clark

Post Office Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Inventor's Signature: James Clark Liernan  
James Clark Liernan

Post Office Address: 8421 MALLARDS WAY  
NAPLES, FL 34114

Date: August 19, 2004

Inventor's Signature: \_\_\_\_\_  
Donald Lander

Post Office Address: \_\_\_\_\_

FROM : LANDER

PHONE NO. : 619 551 0315

Aug. 20 2004 01:58PM P3

Declaration  
S.N. 10/039,311  
Page -3-

of the invention to the performance of any work under any  
contract of the National Aeronautics and Space Administration.

The undersigned inventor(s) declare futher that all  
statements made herein of his or her (their) own knowledge are  
true and that all statements made on information and belief are  
believed to be true and further that these statements are made  
with the knowledge that willful false statements and the like so  
made are punishable by fine or imprisonment, or both, under  
Section 1001 of Title 18 of the United States Code and that such  
willful false statements may jeopardize the validity of the  
application or any patent issuing thereon.

Inventor's Signature: \_\_\_\_\_  
Reginald Wayne Clark

Post Office Address: \_\_\_\_\_

Date: \_\_\_\_\_

Inventor's Signature: \_\_\_\_\_  
James Clark Lierman

Post Office Address: \_\_\_\_\_

Date: \_\_\_\_\_

Inventor's Signature: \_\_\_\_\_  
Donald Lander

Post Office Address: 5848 Solis Rd., LA Jolla, CA 92037

Declaration  
S.N. 10/039,311  
Page -4-

---

Date: \_\_\_\_\_.

Inventor's Signature: \_\_\_\_\_

Joseph E. Dunn

Post Office Address: \_\_\_\_\_

---

Date: \_\_\_\_\_.



FETP 70625/5102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Clark, et al.  
Serial No.: 10/039,311  
Filed: 10/26/01  
For: STERILIZATION OF  
PACKAGES AND THEIR  
CONTENTS USING LIGHT  
Group Art  
Unit: TED  
Examiner: TED

RECEIVED  
AUG 23 2004  
LICENSING & REVIEW

Commissioner of Patents and Trademarks  
Washington, DC 20231  
Attn: Licensing and Review

SUPPLEMENTAL DECLARATION BY OFFICER  
PURSUANT TO 42 U.S.C. §§ 2182 & 2457  
FOR APPLICANT THAT REFUSES TO SIGN

I Carlton J. Ehl citizen of the United States  
residing at 1903 Camino del Teatro, La Jolla, California 92037  
declare:

That I was an officer of PurePulse Technologies, Inc. during the period of time when the inventors made and conceived the invention described and claimed in patent application:  
Serial Number 10/039,311 Filed in the United States of America on October 26, 2001 titled STERILIZATION OF PACKAGES AND THEIR CONTENTS USING LIGHT

[X] I. (For Inventors Employed by and Organization) That the Inventors made and conceived this invention while employed by PurePulse Technologies, Inc. That the invention is related to the work the Inventors were employed to perform and was made within the scope of the Inventor's employment duties; That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information and services of PurePulse Technologies, Inc. Other relevant facts are \_\_\_\_\_

Declaration  
S.N. 10/039,311  
Page -2-

That to the best of my knowledge and belief (and/or) based upon information provided by \_\_\_\_\_ of  
PurePulse Technologies, Inc. :

-OR-

[ ] II. (For Self-Employed Inventors) That I (we) made and conceived this invention on my (our) own time using only my (our) own facilities, equipment, materials, funds, information and services. Other relevant facts are \_\_\_\_\_

(Check III and/or IV below as appropriate)

That to the best of my (our) knowledge and belief:

[X] III. The invention was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors: Energy Research and Development Administration or the Department of Energy.

-AND/OR-

[X] IV. The invention was not made (conceived or first actually reduced to practice) under nor is there any relationship of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration.

The undersigned Officer of PurePulse Technologies, Inc. declares further that all statements made herein of his or her own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements

Declaration  
S.N. 10/039,311  
Page -3-

may jeopardize the validity of the application or any patent  
issuing thereon.

Officer's Signature:

*Carlton J. Lill*

Post Office Address:

*cp Maxwell Technologies*  
*9244 Balboa Ave., San Diego, CA 92123*

Date:

*8/23/04*

FETF 70625/5102

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Clark et al.  
Appln. No.: 10/039,311  
Filed: 10/26/2001  
For: STERILIZATION OF  
PACKAGES AND THEIR  
CONTENTS USING LIGHT  
Group Art  
Unit: TBD  
Examiner: Not Yet Assigned

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AUG 23 2004  
LICENSING & REVIEW

DECLARATION OF THOMAS F. LEBENS

Asst. Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, Thomas F. Lebens, declare as follows:

1. I am currently registered to practice before the United States Patent and Trademark Office. My registration number is 38,221.

2. I am presently a legal representative of Applicants in the present application.

3. I personally contacted Mr. Joseph E. Dunn by telephone at his office, which telephone number is 708-563-8190, and spoke with Mr. Dunn.

Lebens Declaration  
S.N. 10/039,311  
Page -2-

5. I requested that Mr. Dunn sign the declaration pursuant to 42 U.S.C. §§ 2182 & 2457 indicating that the invention of the subject application was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors: Energy Research and Development Administration or the Department of Energy nor is there any relationship of the invention to the performance of any work under any contract of the National Aeronautics and Space Administration if he believed the statements were accurate.

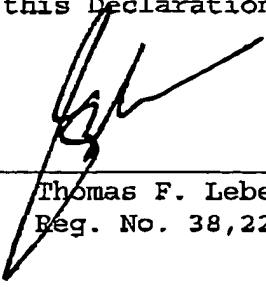
6. Mr. Dunn verbally told me that he did not want to assist with the prosecution of the application without anything in his favor. Mr. Dunn further verbally told me that he would not do anything to meet the deadline of March 20, 2003, for which the declaration is to be submitted.

7. Based upon my conversation with Mr. Dunn, I declare that Mr. Dunn refused to sign the declaration pursuant to 42 U.S.C. §§ 2182 & 2457.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code,

Lebens Declaration  
S.N. 10/039,311  
Page -3-

and that such willful false statements may jeopardize the  
validity of the application, any patents issuing thereon,  
or any patent to which this Declaration is directed.



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Thomas F. Lebens  
Reg. No. 38,221

Dated: 8/19/04

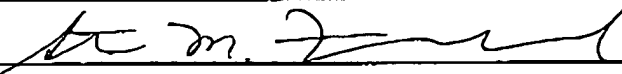
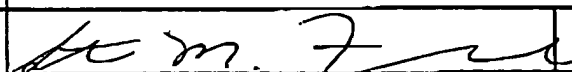
70625dec.lebens.002

PTO/SB/21 (08-03)

Approval for use through 07/31/2008. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)		Application Number	10/039,311			
		Filing Date	October 26, 2001			
		First Named Inventor	Clark			
		Art Unit	TBD			
		Examiner Name	TBD			
Total Number of Pages in This Submission		16	Attorney Docket Number	70625/5102		
<b>ENCLOSURES (check all that apply)</b>						
<table border="0"> <tr> <td> <input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53         </td> <td> <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____         </td> <td> <input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):            Response to the Requirement For Statement; Declaration of Clark, Liernan and Lander; Supplemental Declaration By Officer; Declaration of Thomas F. Lebens; Facsimile Coversheet         </td> </tr> </table>				<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to the Requirement For Statement; Declaration of Clark, Liernan and Lander; Supplemental Declaration By Officer; Declaration of Thomas F. Lebens; Facsimile Coversheet
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Response to the Requirement For Statement; Declaration of Clark, Liernan and Lander; Supplemental Declaration By Officer; Declaration of Thomas F. Lebens; Facsimile Coversheet				
<b>REMARKS:</b>						
<b>SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT</b>						
Individual name	Steven M. Freeland, Reg. No. 42,555					
Signature						
Date	August 23, 2004					
<b>CERTIFICATE OF TRANSMISSION/MAILING</b>						
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 the date shown below.						
<div style="text-align: right;">August 23, 2004</div>						
Typed or printed name	Steven M. Freeland					
Signature		Date	August 23, 2004			

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Fitch, Even, Tabin & Flannery***Intellectual Property Law*

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# F A C S I M I L E


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Name: Mr. James Samuels  
Licensing and Review  
U.S. Patent & Trademark Office

FAX: (703) 305-7658

Application No.: 10/039,311  
Filing Date: October 26, 2001  
Inventors: Clark et al.  
Art Unit: TBD  
Examiner: TBD

**RECEIVED**  
AUG 23 2004  
LICENSING & REVIEW

From: Steven M. Freeland, Reg. No. 42,555  
Telephone Number: (858) 552-1311  
Today's Date: August 23, 2004  
Attorney Docket No.: 70625/5102  
Pages: Sixteen (16) (including this 1-page coversheet)  
Dispatched by: D. Dockett 

**PLEASE CONFIRM RECEIPT**

Transmitted herewith for filing via facsimile:

Transmittal Form (1 pg.); Response to the Requirement For Statement (2 pgs.); Declaration of Clark, Lierman and Lander (6 pgs.); Supplemental Declaration By Officer (3 pgs.); Declaration of Thomas F. Lebens (3 pgs.); Fax coversheet (1 pg.)

The documents accompanying this facsimile transmittal cover sheet contain information from the law firm of Fitch, Even, Tabin & Flannery which may be confidential and/or legally privileged. The documents are intended only for the personal and confidential use of the addressee identified above. If you are not the intended recipient or an agent responsible for delivering these documents to the intended recipient, you are hereby notified that any review, disclosure, copying, distribution or the taking of any action in reliance on the contents of this transmitted information is strictly prohibited. If you have received this facsimile in error, please immediately notify the Firm so that we can arrange for the return of the original documents to us. Thank you.

---

9276 Scranton Road, Suite 250  
San Diego, California 92121-7701  
Telephone 858-552-1311  
Fax 858-552-0095  
70625faxcvrsht.001